

# EXHIBIT 2

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF TEXAS

3 AUSTIN DIVISION

4 UMG RECORDINGS, INC., §

5 et al. §

6 §

7 VS. § CIVIL ACTION NUMBER

8 § 1:17-cv-0365-LY

9 GRANDE COMMUNICATIONS §

10 NETWORKS LLC and §

11 PATRIOT MEDIA §

12 CONSULTING, LLC §

13  
14 30(b)(6) Deposition of

15 Grande Communications Networks LLC

16 By and Through its Designated Representative

17 RICHARD N. FOGLE

18 And in His Individual Capacity

19 Austin, Texas

20 June 28, 2018

21 2:44 p.m.

22  
23 Job No.: 193714

24 Pages: 1 - 228

25 Reported by: Micheal A. Johnson, RDR, CRR

Transcript of Richard N. Fogle, Designated Representative  
Conducted on June 28, 2018

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1 fighting too much and I said 30,000. I don't

18:16:47

2 recall sending him quotes. I'm not sure why he

18:16:50

3 would want to see those.

18:16:53

4 Q. The links in Google that you sent him were

18:16:54

5 to show him that Grande should delete e-mails in

18:16:57

6 an attempt to avoid the same kind of liability

18:17:00

7 that Cox was found for in the Virginia case,

18:17:02

8 right, sir?

18:17:05

9 A. No. It said that our policy has always

18:17:06

10 stated seven years and we were just lax in

18:17:09

11 enforcing it. We are enforcing it to be in

18:17:11

12 compliance with our policy and by the way, here

18:17:14

13 are some other reasons. My IT manager said that

18:17:16

14 we need to comply with our policy and it's on its

18:17:18

15 last legs. I spoke to Bill Davis about that. He

18:17:21

16 told me the story and I used his story to try to

18:17:24

17 tell Paul that there are other reasons why we want

18:17:28

18 to comply with our policy.

18:17:31

19 Q. Did you anticipate -- strike that.

18:17:33

20 You knew at this time that Rightscorp had

18:17:36

21 sent hundreds of thousands of notices of

18:17:38

22 infringement to Grande, right?

18:17:41

23 MR. HOWENSTINE: Objection, lacks

18:17:43

24 foundation.

18:17:44

25 A. Not to my knowledge.

18:17:45

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1	Q. Your --	18:19:36
2	A. Cox -- are you talking about 206?	18:19:37
3	Q. 207.	18:19:39
4	A. From William -- or to William Davis from	18:19:40
5	me --	18:19:43
6	Q. No, 207.	18:19:43
7	A. 207.	18:19:44
8	Q. Seven months after you received the e-mail	18:19:46
9	246,000 Rightscorp notices, you wrote Mr. Morgan	18:19:52
10	that the key to Rightscorp winning the judgment is	18:19:54
11	Cox kept e-mail. Do you see that?	18:19:58
12	A. Yes.	18:20:04
13	Q. And this was in an e-mail trying to	18:20:05
14	encourage Mr. Morgan to delete e-mails?	18:20:07
15	MR. HOWENSTINE: Objection, asked and	18:20:10
16	answered.	18:20:11
17	BY MR. O'BEIRNE:	18:20:11
18	Q. Right?	18:20:11
19	A. This was to encourage him to clean up his	18:20:12
20	act, yes.	18:20:15
21	Q. And by "clean up his act," you mean delete	18:20:15
22	e-mails?	18:20:18
23	A. To be in compliance with our policy and to	18:20:18
24	stop complaining because we need to cut off the	18:20:21
25	seven year.	18:20:24

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1	Q. To clean up his act, you mean delete	18:20:25
2	e-mails, right?	18:20:27
3	A. To be in compliance with our seven year	18:20:28
4	and he was -- after this e-mail, he still didn't	18:20:30
5	listen to me.	18:20:32
6	Q. So you would agree with me you're	18:20:32
7	directing him to delete e-mails here?	18:20:35
8	A. No. I told him that he needs to comply	18:20:36
9	with the seven years and stop escalating and be	18:20:39
10	okay with us removing e-mails past seven years as	18:20:45
11	per our policy that we were lax in enforcing.	18:20:48
12	Q. By removing e-mails past seven years, you	18:20:51
13	mean they're deleted and gone?	18:20:54
14	A. Yeah. We have to.	18:20:55
15	Q. So this is encouraging him to allow the	18:20:56
16	deletion of his e-mails?	18:20:59
17	MR. HOWENSTINE: Objection, asked and	18:20:59
18	answered.	18:21:00
19	A. This is encouraging him to go along with	18:21:02
20	it without continuing to escalate and complain and	18:21:06
21	have meetings, yes.	18:21:10
22	BY MR. O'BEIRNE:	18:21:11
23	Q. You go on to say, "I'm not trying to slow	18:21:11
24	you down or trip you up, just have to balance	18:21:14
25	regulatory, liability and budgetary factors,"	18:21:16

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1 MR. O'BEIRNE: We asked for all relevant 18:37:38  
2 communications, and we got e-mails from a variety 18:37:40  
3 of sources to include other e-mails of Mr. Fogle's 18:37:42  
4 in message form, but not this one. 18:37:46

5 A. I have no idea. 18:37:48

6 BY MR. O'BEIRNE: 18:37:49

7 Q. I'm asking you, sir, did you delete this 18:37:49  
8 e-mail from your files? 18:37:51

9 A. No. 18:37:51

10 Q. Did you delete any e-mails specifically 18:37:52  
11 for the purpose of removing incriminating evidence 18:37:53  
12 about Grande's actions regarding the DMCA? 18:37:56

13 A. No. 18:37:59

14 Q. How can you explain why there are native 18:38:00  
15 copies -- dot message file copies of your e-mails, 18:38:03  
16 such as, "I'm going to work from home tomorrow," 18:38:09  
17 but this one, GRANDE0001, does not appear in your 18:38:11  
18 e-mail? 18:38:14

19 A. I have no idea. 18:38:14

20 MR. HOWENSTINE: Again, Phil, did you ask 18:38:18  
21 us to produce this document in message form? 18:38:19

22 MR. O'BEIRNE: I'm sorry, I'm conducting 18:38:22  
23 the deposition. If you have an objection to 18:38:25  
24 questions, that's fine. I'm asking the witness if 18:38:26  
25 the witness deleted e-mails corresponding to his 18:38:27

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1	to? That's vague.	18:41:18
2	Q. I'm asking you a question.	18:41:20
3	A. Okay.	18:41:21
4	Q. You can answer it. You remember, sitting	18:41:22
5	here, conversations you had in August and	18:41:24
6	September about e-mail retention, correct?	18:41:26
7	A. In 2016?	18:41:36
8	Q. Yes.	18:41:37
9	A. Yes.	18:41:37
10	Q. All right. And in 2016, at the time you	18:41:38
11	had those conversations, you were concerned that	18:41:41
12	incriminating e-mails regarding Grande's conduct	18:41:44
13	would be discovered in Grande's e-mail files if	18:41:47
14	those e-mail files were subpoenaed in litigation,	18:41:49
15	right?	18:41:52
16	A. No.	18:41:53
17	MR. HOWENSTINE: Objection, asked and	18:41:53
18	answered.	18:41:54
19	BY MR. O'BEIRNE:	18:41:56
20	Q. If you had such a concern and you directed	18:41:56
21	them to be deleted, sir, that would violate this	18:41:58
22	policy, wouldn't it?	18:42:01
23	A. If I had that concern and I said delete	18:42:03
24	it, that would violate that policy, yes.	18:42:06
25	Q. Do you continue to believe that e-mail	18:42:15